

REMARKS

This paper is presented in response to the Final Office Action. By this paper, claim 1 is amended. Claims 1-3, 5-7, 10, 12-14, and 16-22 are pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Final Office Action.

I. General Considerations

A. Claim Amendments and/or Cancellations

With particular reference to the claim amendments, Applicant notes that while claim 1 has been amended herein, such amendment has been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments, claim cancellations nor statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicant notes as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the

purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

II. Objections to the Drawings

The Examiner has objected to the drawings based on various informalities. Applicant submits that in light of amendments set forth herein to the drawings and to the specification, the objection has been overcome and should be withdrawn.

III. Rejection of Claims 3, 4, 10, 11, and 13-16 under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to clearly articulate the reason(s) why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. See *MPEP* § 2141.III. As stated by the U.S. Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ____, 82 USPQ2d 1385 (2007), the analysis supporting a rejection made under 35 U.S.C. § 103 should be made explicit. Moreover, the Court also stated in *KSR* that "...[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1396.

A. Claims 1-3, 5-7, 10, 12-14, 16-19, and 21

The Examiner has rejected claims 1-3, 5-7, 10, 12-14, 16-19, and 21 under 35 U.S.C. § 103(a) as being purportedly obvious over US 5,337,398 to Benzoni et al. ("*Benzoni*") in view of a non-patent reference ("*X2-MSA*"). Applicant respectfully disagrees with the contention of the Examiner and submits that for at least the reasons set forth below, the rejection of those claims should be withdrawn.

By this paper, Applicant has amended claim 1 to recite in part "...a transceiver housing including two sides, a top, a bottom, and front and rear faces, at least the front face having right and left sides, the transceiver housing defining a pair of optical ports within an interior of the transceiver housing, and the bottom of the transceiver housing defining a pair of optical port slots, each of the optical port slots being in communication with a respective optical port..." Support for this amendment can be found in various locations in the application, including at Figures 1a and 1c.

In contrast, the Examiner has not shown that the cited references, when combined in the purportedly obvious fashion, teach or suggest these elements in combination with the other elements of claim 1. Applicant notes that US 6,485,322 to Branch et al. ("*Branch*") is relied upon by the Examiner

solely for its purported disclosure of “an optical interface card with a PCMCIA format.” *Final Office Action* at 5. In light of the foregoing, Applicant submits that the rejection of claim 1, as well as the rejection of corresponding dependent claims 2-3, 5-6, 17-19, should be withdrawn.

Regarding claim 7, from which claims 10, 12 and 21 depend, Applicant notes that the Examiner has failed to allege, much less establish, that *Benzoni* and/or *X2-MSA* discloses the following claim 7 elements:

“...a transceiver housing within which the transceiver substrate, receive optical assembly, and transmit optical assembly are at least partially disposed...”;

“...the transceiver housing including an interior wall that is substantially parallel to respective axes defined by the transmit and receive optical subassemblies...”;

“...the interior wall at least partially defines both first and second optical ports...”; and

“...a bottom of the transceiver housing defining a pair of optical port slots such that each of the optical port slots communicates with a corresponding optical port...”

With regard to the failure of the Examiner to specifically address the foregoing, and other, elements of the rejected claims, Applicant submits that if the origin of teachings and motivation set forth for the proposed combinations are believed by the Examiner to be present in the references, then the Applicant requests that this origin be set forth as suggested by MPEP 2144.08 III which states, “[w]here applicable, the finding should clearly articulate which portions of the reference support any rejection. Explicit findings on motivation or suggestion to select the claimed invention should also be articulated in order to support a 35 U.S.C. 103 ground of rejection. *Dillon*, 919 F.2d at 693, 16 USPQ2d at 1901; *In re Mills*, 916 F.2d 680, 683, 16 USPQ2d 1430, 1433 (Fed. Cir. 1990). Conclusory statements of similarity or motivation, without any articulated rationale or evidentiary support, do not constitute sufficient factual findings.” *Emphasis added*.

For at least the foregoing reasons, Applicant respectfully submits that the Examiner has failed to establish that the references, when combined in the purportedly obvious fashion, teach or suggest all the elements of the rejected claims. Applicant thus submits that the rejection of claims 7, 10 and 12 should be withdrawn.

Turning next to claim 13, from which claims 14 and 16 depend, Applicant notes that the Examiner has failed to allege, much less establish, that *Benzoni* and/or *X2-MSA* discloses the following claim 13 elements:

“...a substantially box-shaped transceiver housing in which the transceiver substrate, receive optical sub-assembly, and transmit optical sub-assembly are positioned...”, and

“...at least one optical port slot being defined in a bottom of the substantially box-shaped transceiver housing...”

With regard to the failure of the Examiner to specifically address the foregoing, and other, elements of the rejected claims, Applicant submits that if the origin of teachings and motivation set forth for the proposed combinations are believed by the Examiner to be present in the references, then the Applicant requests that this origin be set forth as suggested by MPEP 2144.08 III which states, “[w]here applicable, the finding should clearly articulate which portions of the reference support any rejection. Explicit findings on motivation or suggestion to select the claimed invention should also be articulated in order to support a 35 U.S.C. 103 ground of rejection. *Dillon*, 919 F.2d at 693, 16 USPQ2d at 1901; *In re Mills*, 916 F.2d 680, 683, 16 USPQ2d 1430, 1433 (Fed. Cir. 1990). Conclusory statements of similarity or motivation, without any articulated rationale or evidentiary support, do not constitute sufficient factual findings.” *Emphasis added*.

For at least the foregoing reasons, Applicant respectfully submits that the Examiner has failed to establish that the references, when combined in the purportedly obvious fashion, teach or suggest all the elements of the rejected claims. Applicant thus submits that the rejection of claims 13, 14 and 16 should be withdrawn.

B. Claims 20 and 22

The Examiner has rejected claims 20 and 22 under 35 U.S.C. § 103(a) as being purportedly obvious over *Benzoni* and *X2-MSA* in view of *Branch*. Applicant respectfully disagrees with the contention of the Examiner and submits that for at least the reasons set forth below, the rejection of those claims should be withdrawn.

By virtue of their dependence from claims 1 and 7, respectively, claims 20 and 22 each include all the elements of those claims. As noted above however, the Examiner has not established that the cited references, when combined in the purportedly obvious fashion, teach or suggest all the elements of claims 1 and 7. Applicant thus submits that, for at least this reason, the rejection of claims 20 and 22 is not well taken and should be withdrawn.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-3, 5-7, 10, 12-14, and 16-22 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 10th day of March 2008.

Respectfully submitted,

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